

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2021-192-E

In re:

Dominion Energy South Carolina,
Incorporated Coal Retirement Docket
Opened Pursuant to Commission Order
No. 2021-418

**INTERVENORS' JOINT MOTION
REQUESTING AMENDED
PROCEDURAL SCHEDULE &
CLARIFICATION OF SCOPE OF
PROCEEDING**

Sierra Club, Southern Alliance for Clean Energy, South Carolina Coastal Conservation League, and Carolinas Clean Energy Business Association (collectively, "Intervenors") jointly move for an amendment to the procedural schedule and seek clarification regarding the scope of the above-referenced docket.

Background and Factual Information

1. In Order No. 2020-832, Docket No. 2019-226-E, the Public Service Commission of South Carolina ("Commission") rejected Dominion Energy South Carolina, Incorporated's ("DESC" or "Company") 2020 Integrated Resource Plan ("IRP") and directed DESC to conduct a proper coal retirement analysis.¹ Order No. 2020-832 states:
 - a. "[T]hat a retirement analysis must be completed as soon as possible. While [Effluent Limitation Guidelines ("ELG")] costs themselves are not at issue in this IRP, these costs must be included in any retirement analysis conducted by the

¹ Among other deficiencies, the Commission concluded that "because [DESC] failed to properly analyze facility retirement assumptions, the Proposed IRP d[id] not meet Act 62's requirement that it consider facility retirement assumptions." Order No. 2020-832 at 39; *see also* S.C. Code Ann. § 58-37-40(B)(1)(e)(ii).

Company, and a retirement analysis must be conducted prior to making any decisions regarding whether to retrofit the Williams and Wateree units to comply with the ELG rule.”²

- b. “In order for the Company to meet the December 31, 2025, deadline to retrofit Williams and Wateree, the Commission is opening a new docket to assess the retirement and replacement of the Company’s coal plants. This proceeding will evaluate the reliability risks and environmental costs of continued operation of the coal plants as well as options, informed by resource bids, to replace legacy coal technology with state-of-the-art clean energy.”³
 - c. “DESC is required to perform a comprehensive coal retirement analysis to inform development of its 2022 IRP Update, and to solicit parties’ recommendations on guidelines for performing this analysis and approve a set of guidelines prior to DESC’s 2022 IRP Update development process via the ongoing IRP Stakeholder Process.”⁴
2. In Order No. 2020-832, the Commission required DESC to “incorporate the conclusions from the comprehensive coal retirement analysis” starting in its 2022 IRP Update.⁵
 3. On June 9, 2021, the Commission opened Docket No. 2021-192-E (the “Coal Retirement Docket”) and issued Order No. 2021-418 indicating that the Commission was opening said proceeding “so that the Company and the parties can advise the Commission on an appropriate procedural schedule along with any statutory or regulatory deadlines that might need to be addressed.”

² Order No. 2020-832 at 40.

³ *Id.*

⁴ *Id.*

⁵ *Id.* at Ordering Paragraph 8(i), page 93.

4. On August 17, 2021, DESC filed its 2021 IRP Update where it stated that:
 - a. DESC would complete its Transmission Impact Analysis (“TIA”) by the end of 2021;⁶ and
 - b. “[I]n early 2022, DESC plans to issue a non-binding, indicative all-source RFP for replacement resources based on the anticipated retirement dates for Wateree and Williams identified in the TIA.”⁷
5. On September 3, 2021, the Clerk’s Office issued a notice of hearing and prefiling deadlines. The original schedule directed all parties to file direct testimony on November 15, 2021, responsive testimony on November 29, 2021, and set a hearing date for December 13, 2021.
6. On September 8, 2021, during oral argument regarding the Joint Motion for an Amended Procedural Schedule in DESC’s 2021 IRP Update (Docket Nos. 2021-9-E and 2019-226-E), Sierra Club was asked by Commissioner Ervin to work with the parties to see if we could agree on a procedural sequencing of the hearings for Docket No. 2021-93-E (“Like Facility Docket”) and the Coal Retirement Docket. Commissioner Ervin stated that “[i]t would be helpful to know what you can agree on first rather than us set a procedural schedule without input.”
7. On September 27, 2021, the Sierra Club submitted a status report on discussions between the parties on delaying the Coal Retirement Docket’s procedural schedule by six months.
8. On September 30, 2021, DESC filed a status report in Docket Nos. 2021-9-E and 2019-226-E; Docket Nos. 2021-93-E and 2021-192-E.

⁶ 2021 IRP Update at 19.

⁷ 2021 IRP Update at 19.

9. On October 4, 2021, Intervenor and DESC filed a Joint Motion Requesting an Amended Procedural Schedule in the Coal Retirement Docket, which was granted on October 27, 2021, in Order No. 2021-722.
10. On November 2, 2021, the Clerk's Office issued a Rescheduled Notice of Hearing directing all parties to file Direct Testimony on May 16, 2022, Responsive Testimony on June 6, 2022, and set a Hearing date for June 30, 2022.
11. On January 7, 2022, DESC filed its Transmission Impact Analysis Report Concerning Potential Early Retirement of Wateree and Williams Coal-Fired Electric Generating Units ("TIA").
12. On February 14, 2022, DESC filed a letter Responding to the Intervenor's Comments in Docket No. 2021-9-E, the 2021 Integrated Resource Plan Update. DESC stated that it "plans to complete the Coal Retirement Study in May of 2022 so that it may present it in the direct prefiled testimony of the Company's witnesses in the Coal Retirement Docket. That testimony is due on May 16, 2022."⁸

Request for an Extension of the Schedule

Approximately two weeks ago, DESC notified this Commission that it will "complete" its Coal Retirement Study in May of 2022 and "present it in the direct prefiled testimony of the Company's witnesses in the Coal Retirement Docket."⁹ According to the current schedule, *all* parties are required to file Direct Testimony on May 16, 2022. Intervenor cannot present substantive and useful testimony to the Commission on May 16th without first seeing and reviewing the complete Coal Retirement Study. Without the "complete" Coal Retirement Study being filed with the Commission prior to the parties filing direct testimony, Intervenor will be

⁸ DESC Response to Comments Filed by Intervenor, Docket No. 2021-9-E, at 6.

⁹ *Id.*

effectively precluded from filing substantive Direct Testimony and will have to wait until June 6th to file testimony in response to DESC's Coal Retirement Study and Direct Testimony. Under the current timeline, there would also be no opportunity for DESC to file rebuttal testimony.

Accordingly, the Intervenors request that the Commission adopt the following schedule to allow the Parties to be able to adequately respond to the Coal Retirement Study:

Action/Due Date	Date
DESC Files Direct Testimony and Exhibits including Coal Retirement Study	May 16, 2022
Intervenors and Office of Regulatory Staff ("ORS") file Direct Testimony	June 27, 2022
DESC files Rebuttal Testimony	July 18, 2022
Hearing on or after	August 1, 2022

Request for Clarification on the Scope of the Coal Retirement Docket

There appears to be some tension between the language in the Commission's Order No. 2020-832, which stated the purpose of the Coal Retirement Docket, and Order No. 2021-418 opening said proceeding. Specifically, Order No. 2020-832, rejecting the 2020 DESC IRP, stated:

[i]n order for the Company to meet the December 31, 2025, deadline to retrofit Williams and Wateree, the Commission is opening a new docket *to assess the retirement and replacement of the Company's coal plants*. This proceeding will *evaluate the reliability risks and environmental costs of continued operation of the coal plants as well as options, informed by resource bids, to replace legacy coal technology with state-of-the-art clean energy*.¹⁰

However, in Order No. 2021-418, the Commission stated it was opening the Coal Retirement Docket "so that the Company and the parties can advise the Commission on an appropriate

¹⁰ Order No. 2020-832 at 40 (emphasis added).

procedural schedule along with any statutory or regulatory deadlines that might need to be addressed.” Based on this differing language, it is unclear whether the Commission intends for the Coal Retirement Docket to be merely informational, advising the Commission on pertinent regulatory or statutory deadlines, or substantive, for the Parties to evaluate the scope and adequacy of DESC’s Coal Retirement Study and, as contemplated by Order No. 2020-832, whether the Study properly:

1. “evaluate[d] the reliability risks and environmental costs of continued operation of the coal plants as well as options, informed by resource bids, to replace legacy coal technology with state-of-the-art clean energy;”¹¹
2. “was conducted prior to making any decisions regarding whether to retrofit the Williams and Wateree units to comply with the ELG rule;”¹² and
3. informed and was incorporated into the 2022 IRP Update.¹³

Based on the fact that the Commission set a procedural schedule which included deadlines for Direct Testimony, Responsive Testimony, and a Hearing date coupled with the language in Order No. 2020-823, this docket should substantively address the contents of the Coal Retirement Study.

In addition, it seems, based on correspondence with DESC Counsel, that the Company understands this docket to be informational only. Further, the Company has interpreted this scope to mean that the Intervenors should wait until the complete version of the Coal Retirement Study is presented in the 2023 IRP before substantive feedback and/or alternative modeling should be presented to this Commission for consideration. *See Exhibit A*, copy of correspondence with DESC Counsel, Kenneth Burgess.

¹¹ Order No. 2020-832, at 40.


¹² Order No. 2020-832, at 40.

¹³ Order No. 2020-832, Ordering Paragraph 8(i), page 93.

In order to carry out the explicit objectives of Order No. 2020-832, the Commission must clarify that this docket encompasses a substantive review of DESC's Coal Retirement Study. First, there are impending deadlines to comply with the ELGs (December 31, 2025), as this Commission recognized, so it is imperative that the Coal Retirement Study be completed "as soon as possible" and *before* DESC makes any final decisions on whether to retrofit or retire the Wateree and Williams coal plants.¹⁴ Second, the results of the Coal Retirement Study are required to be incorporated into the 2022 IRP Update, which has yet to be filed. If the Coal Retirement Study is fundamentally flawed and fails to meet the requirements of Order No. 2020-832, then those flaws need to be addressed *prior to* incorporation into the 2022 IRP Update, and subsequent IRPs. If this docket does not allow all Parties to substantively comment on and critique DESC's Coal Retirement Study, then Intervenors may be without recourse to bring substantive comments to this Commission on the final Coal Retirement Study *before* it is incorporated into the 2022 IRP Update. The Intervenors are actively engaging in the IRP Stakeholder Process, which is also addressing the Coal Retirement Study, but the Stakeholder Process does not provide Intervenors with an opportunity to raise fundamental flaws with this Commission. That is the purpose of the Coal Retirement Docket as clearly envisioned by Order No. 2020-832.

Accordingly, the Intervenors request that the Commission adopt the proposed Procedural Schedule, on page 5, and issue an order clarifying the scope of this proceeding.

Respectfully submitted this 2nd day of March, 2022.



Robert Guild
S.C. Bar No. 2358

¹⁴ Order No. 2020-832 at 40.

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Counsel for Sierra Club

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*Counsel for South Carolina Coastal Conservation
League and Southern Alliance for Clean Energy*

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I hereby certify that I have served the persons listed on the official service list for Docket No. 2021-192-E, listed below, a copy of the Intervenor's Joint Motion Requesting Amended Procedural Schedule and Clarification of Scope of Proceeding, via electronic mail on this 2nd day of March, 2022. This is submitted on behalf of the Sierra Club, Southern Alliance Clean Energy, South Carolina Coastal Conservation League, and Carolina Clean Energy Business Association.

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A handwritten signature in black ink, appearing to read 'D. Jaffe', written over a horizontal line.

Dorothy Jaffe

EXHIBIT A



Dori Jaffe <dori.jaffe@sierraclub.org>

Docket No. 2021-192-E Coal Docket Scheduling Order

Dori Jaffe <dori.jaffe@sierraclub.org>

Tue, Mar 1, 2022 at 3:41 PM

To: KENNETH BURGESS <chad.burgess@dominionenergy.com>

Cc: Robert Guild <bguild@mindspring.com>, MATTHEW GISSENDANNER <matthew.gissendanner@dominionenergy.com>

Bcc: Justin Somelofske <justin.somelofske@sierraclub.org>

Good Afternoon Chad,

I wanted to follow-up on two things. The first is confirming that you received the Energy Exemplar letter I attached to my email on February 24th. Is that letter sufficient for purposes of disclosing the information we requested in Sierra Club 1-4?

Second, we plan to file a Motion to Extend the Schedule and Request for Clarification on the scope of this proceeding in the next day or two. I wanted to give you a heads-up that I plan to attach this email chain that brought the scope issue to light.

Best Regards

dori

*Dori**she/her*

Managing Attorney

Sierra Club

202-675-6275

dori.jaffe@sierraclub.org

On Thu, Feb 24, 2022 at 12:41 PM Dori Jaffe <dori.jaffe@sierraclub.org> wrote:

Thank you Chad. We appreciate DESC making the modeling files available to use as soon as they are finalized. I've attached the letter from Energy Exemplar that authorizes the exchange of PLEXOS modeling files. I trust that this will allow DESC to respond fully to Sierra Club 1-4 once the modeling files are finalized.

Regarding the current schedule, even if we decide not to file our own model, we still cannot file direct testimony on a coal retirement analysis we haven't seen prior to the May 16th deadline. We'd have to forego filing direct testimony and rely solely on responsive testimony, which is due June 6th. This would also prohibit DESC from filing any sort of response/rebuttal to our June 6th testimony since that was not built into the schedule by the Commission. Irrespective of the modeling issue, this was the main reason why we wanted to request an extension of the schedule.

With respect to the scope of the coal docket, there is a disconnect between the Commission's Final Order in the 2020 IRP (Order No 2020-832) order and the directive opening the coal docket, but the Commission's original scheduling order laid out direct testimony, responsive testimony and a hearing, which mirrors the schedule of a fully contested case. If this was an informational docket only, the Commission would have so indicated. Looking back at the 2020 IRP final order, it also seems clear that the Commission intended for the coal retirement analysis to be presented in the 2022 IRP Update and not wait until 2023:

DESC is required to perform a comprehensive coal retirement analysis to inform development of its 2022 IRP Update, and to solicit parties' recommendations on guidelines for performing this analysis and approve a set of guidelines prior to DESC's 2022 IRP Update development process via the ongoing IRP Stakeholder Process. [Order No. 2020-832 at 40]

The Ordering Paragraphs also reference incorporating the conclusions from the comprehensive coal retirement analysis starting in the 2022 IRP Update. [Ordering Paragraph 8(i) at p.93]. We have been operating under the assumption that the coal retirement analysis would be complete and final prior to the filing of the 2022 IRP Update and likewise thought the retirement analysis filed with the Commission in this docket would be the final version and not just a first

draft that would be subject to additional vetting as you mentioned in your email. If I misunderstood you about the draft versus final version of the retirement analysis, please let me know.

Sierra Club still plans to file a motion, along with the other intervenors, asking for an extension of the schedule so the parties can respond to the retirement analysis in its Direct Testimony. We also think it would be prudent to request clarification of the scope of the coal docket in the same motion so that all parties can be on the same page. We agree that it would be a waste of time and resources (for all parties) if the Commission did truly intend for this docket to be "informational purposes only" and we have to wait for the 2022 IRP Update or the 2023 full IRP to critique and/or present alternatives to DESC's coal retirement analysis.

I'm happy to file two separate motions on these issues (1. extension of schedule and 2. scope of the proceeding) if DESC would like to sign on to either of them. Please let me know if you'd like to follow-up with a call to talk through these issues.

Best Regards
dori

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she/her
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On Mon, Feb 21, 2022 at 1:27 PM KENNETH BURGESS <chad.burgess@dominionenergy.com> wrote:

Dori:

The Company has thought about your suggestion concerning scheduling, and it doesn't see it as being consistent with the nature of this docket. In addition, for the reasons I will explain, I think the approach you propose could be a hindrance to the overall process related to planning for coal retirements which we all understand to be of first priority.

In the directive opening the docket, the Commission stated that its limited purpose was "so that the company and the parties can advise the Commission on an appropriate procedural schedule along with any statutory or regulatory deadlines that might need to be addressed." Order No. 2021-418. The limited nature of the docket is in keeping with the fact that the Commission has instructed the Company to present coal retirement plans for review in the 2023 IRP. The Commission opened this docket on its own initiative, and the notice does not provide for any request for relief to be granted in it.

Our primary concern with your proposed schedule is that it seems to assume that this is an appropriate docket for the parties to submit competing retirement plans modeling to the Commission. Doing so would be outside of the scope of the docket as noticed by the Commission and would be premature. It would largely preempt the stakeholder process that must be accomplished before mature plans or alternatives can be presented to the Commission in the 2023 IRP docket. Between now and the filing of the 2023 IRP, the Company will be pursuing extensive stakeholder review of the retirement analysis that is being finalized now.

We do not believe that it is in any party's interest to invite a ruling on any of the important matters related to retiring these coal units until they are fully vetted through the stakeholder process and presented to the Commission for review in a properly noticed and fully litigated proceeding. In this docket, the Company plans to present the soon-to-be-completed coal retirement study and the scheduling information it contains, and to do so for informational purposes only. The Company does not intend to seek any Commission ruling concerning coal retirements in this proceeding.

We also think it would not be an appropriate use of time and resources to litigate retirement plan modeling in the current docket. There are a tremendous number of things that need to be done between now and the 2023 IRP for a mature plan and mature alternatives to be presented at that time. The things that need to be done include preparing and filing the 2022 IRP Update, which will involve the first use of resource optimization modeling for a DESC IRP, as well as completing reserve margin studies, a new DSM potential study, revisions to the reliability matrix, updates to multiple planning inputs and the other matters that are being discussed in the stakeholder process. Expanding this docket to litigate coal retirement modeling, before these changes are made and stakeholder processes are completed, could become a great waste of effort and create a major distraction from that important work.

Our second concern with your proposal is that, assuming modeling by Sierra Club is necessary in this docket, and we don't believe that it is, DESC has no objection to providing relevant modeling files as soon as they are completed and have been fully reviewed and finalized in advance of the testimony filing date. *See* page 9 of DESC's comment letter to the Commission dated February 14, 2022. This information is being provided both as a part of stakeholder process and discovery in this proceeding.

For those reasons, we intend to limit our pre-filed testimony to the issues noticed by the Commission and hope you will do the same.

Thanks again for checking-in with us and if you have any questions, please advise.

Chad

From: Chad Burgess (Services - 6)
Sent: Thursday, February 17, 2022 1:14 PM
To: 'Dori Jaffe' <dori.jaffe@sierraclub.org>; Matthew Gissendanner (Services - 6) <matthew.gissendanner@dominionenergy.com>
Cc: Robert Guild <bguild@mindspring.com>
Subject: RE: [EXTERNAL] Docket No. 2021-192-E Coal Docket Scheduling Order

Dori –

Thanks for your email and checking-in with us. Matt and I will need to discuss your proposal with the Company. I'll be back in touch.

Chad

From: Dori Jaffe <dori.jaffe@sierraclub.org>
Sent: Wednesday, February 16, 2022 12:28 PM
To: Matthew Gissendanner (Services - 6) <matthew.gissendanner@dominionenergy.com>; Chad Burgess (Services - 6) <chad.burgess@dominionenergy.com>
Cc: Robert Guild <bguild@mindspring.com>
Subject: [EXTERNAL] Docket No. 2021-192-E Coal Docket Scheduling Order

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Good Afternoon Matt and Chad,

We were reviewing DESC's response to our comments on the 2021 IRP Update and on page 6 it states:

DESC plans to complete the Coal Retirement Study in May of 2022 so that it may present it in the direct prefiled testimony of the Company's witnesses in the Coal Retirement Docket. That testimony is due on May 16, 2022.

May 16, 2022 is the date that all parties are required to file Direct Testimony in the coal docket. Without the final Coal Retirement Study, Sierra Club and other intervenors cannot draft Direct Testimony responding to the conclusions reached in the retirement study. In light of this development on the release date of the final Coal Retirement Study, we plan to seek an extension of the current schedule with the following proposed dates:

- May 16 - DESC files direct testimony, including the Coal Retirement Study
- June 27 - Staff and intervenors file direct testimony
- July 18 - DESC rebuttal testimony
- Week of August 8 - hearing

Six weeks is the amount of time we would need to review the Retirement Study, the supporting workpapers, run our own model and draft responsive testimony. I left in the same 3 week timeframe for DESC's rebuttal testimony as well as the 3-week timeframe between the rebuttal testimony and the hearing date. However, I am happy to adjust those 3-week timeframes if you need more/less time or have summer vacations already planned during those weeks.

Would DESC be agreeable to this new schedule, and if so, can I include you on our Joint Motion? I also plan to reach out to ORS to get their feedback on the proposed schedule.

Thank you for your consideration,

dori



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